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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,949	02/11/2004	Andreas Ewert	081276-1029-00	4259

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EXAMINER

MULLINS, BURTON S

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,949

Applicant(s)

EWERT ET AL.

Examiner

Burton S. Mullins

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Response to Amendment

2. The preliminary amendment filed reply filed on 11 February 2004 has been entered.

Specification

3. The disclosure is objected to because of the following informalities: On p.1, line 5, reference to specific claims should be removed since the claim numbering may change during prosecution. It is also suggested that applicant change “aggregate” to ---component--. While applicant can be his own lexicographer, a term should not be repugnant to the generally accepted meaning. An “aggregate” refers to a sum of particular parts. In applicant’s specification, it seems to mean an unspecified but nevertheless *particular* part.

In the claims, use of the phrase “is embodied as” should be changed to simply --- comprises---. In claims 6 and 11, change “aggregate” and “aggregate that is to be driven is a fan wheel (26) of” to --component—and --the component comprises a fan wheel driven by--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, “metal/soft component/metal” is vague and indefinite. In claim 6, the functional recitation “in a torque-proof manner” is vague and indefinite. Does this refer to the aggregate, the hub, the damper, or the connection between the hub or damper and the rotor? Further, it is not clear what “torque-proof” means. In claims 6 and 11, the phrase “aggregate” is not idiomatic and confusing. An “aggregate” refers to a sum of particular parts. In claim 8, “the damper...is fastened, preferably sprayed...” is vague and indefinite. “Preferably” implies a possibility or option, not a definite structural limitation. In claims 3 and 10, “and/or” is indefinite because it is not clear if this term is used exclusively or inclusively.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Buijsen (US 4,617,484). Buijsen teaches a external rotor motor with a stator (17/19) and a rotor (23), which surrounds the stator while leaving an air gap (Fig.1), characterized in that at least one damper comprising a circular band (33) that is composed at least partially of an elastic material (c.2, line

Art Unit: 2834

55) is arranged on the outside of the rotor, i.e., on the outer circumference of ring 31 forming part of the rotor (Fig.2, c.2, lines 47-49).

7. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakashita et al. (US 5,796,200). Sakashita teaches a external rotor motor with a stator (5/6) and a rotor (7), which surrounds the stator while leaving an air gap (Fig.1), characterized in that at least one damper comprising two flexible bond magnets (16/17) that is composed at least partially of an elastic material (abstract) is arranged on the outside of the rotor 7. Regarding claim 2, the bond magnets comprise an elastomer, e.g., rubber, mixed with a magnetic powder which comprises metal such as iron (c.4, lines 3-11 and 25-31).

Allowable Subject Matter

8. Claims 3-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest that the damper comprises a damper cap surrounding a pot jacket or at least partially covering the pot base (claim 3); or that a component with a hub that is to be driven by the rotor is slid over the damper and connected to the rotor in a torque-proof manner [sic], i.e., the component is fit on the damper such that it does not move relative to the rotor.

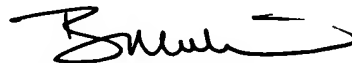
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2834

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Burton S. Mullins whose telephone number is 571-272-2029. The examiner can normally be reached on Monday-Friday, 9 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Burton S. Mullins
Primary Examiner
Art Unit 2834

bsm
28 February 2005